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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,391	06/22/2001	Russell H. Fish III	52803-00001	7165

7590

07/26/2005

Russell H. Fish  
5400 Preiton Oaks Rd. #1112  
Dallas, TX 75254

EXAMINER
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NANO, SARGON N

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/887,391

Applicant(s)

FISH, RUSSELL H.

Examiner

Sargon N. Nano

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1- 50 is/are pending in the application.
- 4a) Of the above claim(s) 1- 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 40 - 50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/01, 11/02</u> . | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

1. This action is responsive to election / restriction received on June 27, 2005.

Applicant elects Group II which consists of claims 40 – 50. Claims 40 – 50 are pending examination.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

**Figs. 6a – 6c and fig. 10 D are not provided .**

**Fig. 3B , applicant refer to "neighbor 41" which does not exist., on page 13 of the specification.**

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***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The term s, "substantial and substantially" in claims 40 and 50 are relative term which render the claim indefinite. The terms "substantial and substantially" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 40 – 50 are rejected under 35 U.S.C. 102(e) as being anticipated by Narvaez et al. U.S. Patent No.6,704,320 (referred to hereafter as Narvaez).

As to claim 40, Narvaez teaches a distributed computer network, comprising: a collection of computers;

means for an added computer to locate the collection of computers ( see col. 11, lines 10 – 28, Narvaez discloses all connected nodes are determined with associated links);

means for the added computer to establish a connection to the collection of computers(see col.11, lines 44- 58 Narvaez discloses links are determined between main node and all other nodes) ;

means for each computer in the collection of computers, including the added computer, to establish a logical arrangement such that each computer in the collection of computers can act as a top level of a hierarchy, wherein the hierarchy includes at least a substantial number of the computers in the collection of computers (see col. 10 , lines 37 – 62, Narvaez discloses updated tree adds new nodes and deletes nodes according to distance calculation from the main node).

As to claim 41, Narvaez teaches the distributed computer network of claim 40, wherein the hierarchy comprises a set of member computers, a membership of which depends upon a logical location of the computer that acts as the top level of the hierarchy (see col.11, lines 10 – 60).

As to claim 42, Narvaez teaches the distributed computer network of claim 40, further comprising means for the computer that acts as the top level of the hierarchy to initiate a search for one of a specified computer and specified data (see col. 12, lines 16 – 35).

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As to claim 43, Narvaez teaches the distributed computer network of claim 42, wherein each computer in the collection of computers includes a searchable index of the contents of the computer for facilitating said search (see col. 12, lines 16 – 35).

As to claim 44, Narvaez teaches the distributed computer network of claim 40, further comprising means for the computer than acts as the top level of the hierarchy to broadcast information throughout the hierarchy (see col. 12, lines 16 – 35).

As to claim 45, Narvaez teaches the distributed computer network of claim 40, further comprising means to control a bandwidth utilization of the collection of computers (see col. 1 lines 15 – 30).

As to claim 46, Narvaez teaches the distributed computer network of claim 40, further comprising a plurality of lower level computers, wherein information regarding the lower level computers is stored in a respective one of the computers in the collection of computers (see col. 4 lines 10 – 60).

As to claim 47, Narvaez teaches the distributed computer network of claim 40, further comprising means for rebuilding a logical arrangement of the collection of computers following a loss of at least one computer from the collection of computers (see col. 4 lines 10 – 60).

As to claim 48, Narvaez teaches the distributed computer network of claim 40, further comprising means for distributing software updates throughout the collection of computers (see col. 4 lines 10 – 60).

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As to claim 49, Narvaez teaches the distributed computer network of claim 40, wherein each computer in the collection of computers includes a dynamic physical address (see col. 7 lines 40 – col. 8 line 60).

As to claim 50, Narvaez teaches the distributed computer network of claim 40, further comprising means for generating the logical arrangement to substantially minimize a logical distance between a logical center of the collection of computers and a logical collection edge (see col. 4 lines 10 – 60).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

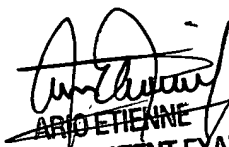
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sargon N. Nano whose telephone number is (571) 272-4007. The examiner can normally be reached on 8 hour.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sargon Nano  
July 22, 2005.

  
ARIO ETIENNE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100